

HON. THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

DEVITTA BRISCOE, individually, and as
executor of the Estate of Che Andre Taylor;
JOYCE DORSEY, individually; CHE ANDRE
TAYLOR, JR., individually; and SARAH
SETTLES on behalf of her minor child,
[REDACTED], and DEMEKA
GREEN for the Estate of Brenda Taylor,

Plaintiffs,

vs.

CITY OF SEATTLE; MICHAEL
SPAULDING and "JANE DOE SPAULDING,
and their marital community composed thereof;
SCOTT MILLER and "JANE DOE" MILLER,
and their marital community composed thereof;
TIMOTHY BARNES and "JANE DOE"
BARNES, and their marital community
composed thereof; and AUDI ACUESTA and
"JANE DOE" ACUESTA, and their marital
community composed thereof,

Defendants.

No. 2:18-cv-00262-TSZ

DEFENDANTS' MOTION FOR LEAVE
TO FILE MOTION TO STRIKE
PLAINTIFFS' SURREPLY AND
DECLARATIONS OF JESSE VALDEZ

Noted for Consideration: May 29, 2020

Defendants City of Seattle, Michael Spaulding, Scott Miller, Timothy Barnes, and Audi
Acuesta ("Defendants") respectfully request that this Court grant them leave to move to strike the
untimely and improper Surreply (Dkts. 99-100) and the additional Declaration of Jesse Valdez (Dkt.

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AND DECLARATIONS OF JESSE VALDEZ - 1
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105). Defendants acknowledge and understand that Local Civil Rule 7(g) states that motions to strike material contained in or attached to submissions of opposing parties shall not be presented in a separate motion to strike. However, in this instance, Plaintiffs have submitted an unauthorized Surreply (Dkt. 99), accompanied by a declaration from counsel (Dkt. 100), without first filing a notice of intent to file a surreply. LCR 7(g)(1). The Surreply does not request the Court strike any materials in Defendants' Reply, and, instead, sets forth new arguments and evidence. These arguments and new evidence are not permitted under LCR 7(g). Then, on May 12, 2020, far more than five days after Defendants filed their Reply in Support of Motion for Summary Judgment, Plaintiffs submitted the Declaration of Jesse Valdez Response [*sic*] to Exhibit 3 Police Video Clip Dkt. 104. (Dkt. 105.) Aside from being untimely and improper, this declaration is replete with hearsay and inadmissible testimony from Mr. Valdez. (*Id.*) It also contains a false representation of fact. (*Id.*) While Defendants respect this Court's rules, it is necessary to file the motion to strike to hold Plaintiffs accountable for improper filings and misrepresentations of fact. For this reason, Defendants respectfully request the Court permit them to file the attached Motion to Strike Plaintiffs' Surreply and Declarations of Jesse Valdez.

DATED this 14th day of May, 2020.

PETER S. HOLMES
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DEFENDANTS' MOTION FOR LEAVE TO FILE
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CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of May, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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